



**Dr Ian M Tiley**

3<sup>rd</sup> February 2013

Committee Secretary  
Joint Standing Committee on Constitutional Recognition of Local Government  
P O Box 6021  
Parliament House  
Canberra ACT 2600

**Private Submission Supporting Financial recognition of Local Government in  
the Australian Constitution**

Dear Sir

I lodge this submission as a person who has been continuously involved in the local government sector for the past 49 years, as a senior manager and then as an elected representative to five councils and Mayor to two councils.

I make the following points:-

1. Local government was not mentioned in the 1901 Australian Constitution. Despite subsequent attempts to gain inclusion and recognition of the third sphere of government under the Australian federal system a successful outcome was not achieved during the 20<sup>th</sup> century. The goal of constitutional recognition has gathered momentum in recent years under the leadership of the Australian Local Government Association (ALGA) and with the former Rudd Labor government policy support for some form of Constitutional Recognition.
2. Given its lack of inclusion in the Australian Constitution, an enduring question remains unanswered as to whether local government has legitimate claim to be part of the Australian national polity or whether it will continue to exist as a subservient provider of public services on behalf of the other spheres of government. Well prior to federation the Australian colonies had provided legislation to legitimise local government and give a framework for its operations.
3. In all my 49 consecutive years in local government, the Commonwealth has always provided financial support for local government. For example, in the 1960's and 1970's the Commonwealth provided Commonwealth Aid Roads funding which enabled the construction and sealing of vital local roads (and bridge construction) that delivered efficient transportation of produce to markets and provided reliable access for rural people to health, education and other vital services. In 1976 the Personal Income Tax Act provided 2% of income tax collections to the sector and in 1978 the process became known as the Financial Assistance Grants Act which continues today for the benefit of local communities across Australia.
4. It is vital that the Commonwealth is legally unrestricted in terms of continuing the excellent support of local government through programs such as Roads to

Recovery, Regional Development Australia Fund and others. Australians in all local government areas value highly the benefits and lifestyle enhancements achieved through such Commonwealth funding support. There is now an urgent need to remove the uncertainty surrounding direct Commonwealth funding to local government created by the High Court judgements in the 'Pape' and 'Williams' cases.

5. The citizens in the approximate 560 local government areas across Australia all contribute to the common pool of taxation and are therefore entitled to share in that pool at the local community level through Commonwealth support for new and restoration of aged infrastructure which are vital to local amenity and wellbeing. Furthermore, Commonwealth direct funding of infrastructure to accommodate growth and regional development is vital given that the Commonwealth has the 'lion's share of the taxation capacity.
6. Local councils have limited taxing capacity with a heavy reliance on property taxation. Given that citizens are already taxed by Commonwealth and States there is inevitably the question of lack of capacity to pay additional property taxes in many parts of Australia, which underlines the importance of the Commonwealth being unimpeded legally in terms of support funding for local communities.
7. Given that the highest Court in the land has made decisions that cast doubt on the ability of the federal government to directly fund local government bodies it is now imperative that this message be effectively communicated to the Australian electorate and that the people be urged to 'get interested' because of the potential direct adverse impacts on all Australians. How the Commonwealth funds local government must be seen as financial recognition of the sector at a very basic level.
8. We in local government are acutely aware of the very limited success rate of referenda, which highlights the need for broader public education around this issue, as well as of the Constitution and the referendum process. Given that the next federal election has been called and is now only eight months away, there must be reasonable doubt about whether there is sufficient time to run an effective education campaign on these matters.
9. The failures of the 1974 and 1988 referenda must not be repeated. They failed through lack of bipartisan political support but also because the questions were not sufficiently simple and straightforward and the perception that local government was making a 'grab' for more power. Therefore there need to one simple message concerning the financial recognition of local campaign, namely that the Constitutional amendment is imperative to safeguard the Commonwealth's legal capability to directly fund and provide benefits to all Australians in their local communities.
10. It is also imperative this time that the local government sector embraces the cause and fully informs and educates every community. I was a senior employee in local government at the time of the previous referenda and this element was sadly lacking.
11. The excellent research of Prof A J Brown warns of the elector ambivalence to the recognition question. The final 2011 report of the Expert Panel stated that most private submissions were opposed to constitutional recognition. This underlines the need for effective community education.
12. I support the wording of the proposed amendment to Section 96 of the Constitution as proposed by the Australian Local government Association.

13. My perspective as a long-time local government grass roots practitioner is that few oppose constitutional recognition of local government as a concept. I believe this is because all Australians live in a local government area and understand the vitality of Commonwealth funding support of their community.
14. The objective of financial recognition is to formalize and secure what has been occurring for at least the last decade to give financial security to communities.
15. There can be little doubt that to introduce other forms of recognition of local government such as democratic, symbolic or recognition through federal cooperation would have the effect of 'clouding' the primary issue and imperative of financial recognition and I therefore caution against any broadening of the financial recognition objective.

Dr Ian Tiley

Emeritus Mayor